

**Department of Health and Human Services
Health Care Financing Administration
Operational Policy Letter 117
OPL2000.117**

Date: March 3, 2000

Subject: Medicare+Choice (M+C) Bonus Payments

Effective Date: January 1, 2000

Summary:

The Balanced Budget Refinement Act (BBRA) established bonus payments to encourage Medicare+Choice organizations (M+CO) to offer plans in counties that would otherwise not have a plan participating in the M+C program. The first M+C plan offered in a previously unserved county would receive a 5 percent bonus payment during their first 12 months in that county and a 3 percent bonus payment during the second 12 months. The BBRA provides for no bonus payments after this second 12-month period. M+COs that qualify for the bonus will be notified by the Health Care Financing Administration (HCFA) that they will receive these additional payments.

Note: HCFA will address the bonus payments in the M+C final rule that will be issued soon. Regulations implementing the bonus payment provisions, like other BBRA provisions included in the final rule, will be open for comment.

The purpose of this OPL is to answer questions related to the implementation of the bonus payment provision.

Q1. What is a "previously unserved county"?

A1. A previously unserved county is either (1) a county in which an M+C plan has not been offered to the residents of that county; or (2) a county in which an M+C plan (or plans) have been offered, but for which every M+CO offering an M+C plan in that county notified HCFA (no later than October 13, 1999) that it would no longer offer M+C plans in that county as of January 1, 2000.

NOTE: A county that has Section 1876 Cost Plans only, but no M+C plans, would be considered a "previously unserved county," justifying the bonus payment.

Q2. Which M+COs are eligible for the new entry bonus?

A2: The first M+CO(s) that offers a plan in a previously unserved county during the period beginning January 1, 2000 and ending December 31, 2001 is eligible for the bonus. Because contract approval dates may vary, two or more organizations with different contract approval dates may be eligible for a bonus in the same area if the M+C plans covered under the contract are first offered on the same date.

The BBRA provides that “with respect to a M+C plan,” it is considered to be “offered” on the date on which an individual is eligible to enroll, without regard to when enrollment is effective, or services are received. We interpret the reference to “a M+C plan” to refer to a plan that “exists,” *i.e.*, a plan provided for under an M+C contract that is in effect. We thus interpret the date on which a plan is “offered” to be the first date on which the M+C contract is effective, and an M+C eligible beneficiary is eligible to enroll. This means that a plan provided for under an M+C contract effective on January 1 would be considered “offered” on January 1, even if no enrollments in that plan were effective until February 1. Thus, if two M+COs offer M+C plans with a January 1 contract effective date, but only one has enrollees effective January 1, they would still both be considered to be first “offered” on January 1, and would both be entitled to bonus payments.

- Q3. Should M+COs include bonus payments in determining their obligation to provide additional benefits?
- A3. No. In determining an M+CO’s obligation to provide additional benefits, HCFA compares the “average” of “capitation payments” under section 1853 to the M+CO’s adjusted community rate (ACR). See section 1854(f)(1)(B). For purposes of determining the additional benefit requirement under section 1854(f)(1), HCFA has consistently interpreted the “average” of “capitation payments” to refer to the county-wide capitation rate, adjusted for the demographics of the M+CO’s population. In other words, HCFA has interpreted this to apply to the amount described in the language following the introductory clause in section 1853(a)(1)(A). HCFA has never factored in the additional adjustments provided for in the introductory clause of this section. When Congress provided for the bonus payments, it included provision for these payments in the introductory clause to section 1853(a)(1)(A) containing payment adjustments not considered by HCFA in determining additional benefit obligations under the ACR process. This approach is consistent with the intent of Congress to provide a financial incentive for M+COs to expand into previously unserved areas. If we were instead to require that the additional payments be included in determining additional benefit obligations, the bonus payments would in whole or part be passed on to the beneficiary as additional benefits or reduced premiums. Though HCFA would not discourage M+COs from using bonus payments to enhance additional benefits, we will not require it. We believe the primary intent of these payments is to increase choices for beneficiaries rather than increase benefits. Therefore, we have concluded that the bonus payments should not be included in the revenue portion of the ACRP.
- Q4. Is the additional 5 percent added to the total payment to an M+CO for a previously unserved county or is the 5 percent added to the payment for a beneficiary in a eligible organization?
- A4. Section 512 of the BBRA states that “the amount of the monthly payment otherwise computed shall be increased” 5 percent for the first 12 months and 3 percent for the subsequent 12 months. Section 1853(a)(1)(A) of the Act states that the Secretary shall make payments in an amount equal to 1/12 of the annual M+C capitation rate with

respect to that individual for that area. Therefore, the payment is calculated on a beneficiary level and the 5 percent will be added to the payment calculated for each beneficiary residing in a county that their M+CO is eligible to receive bonus payments.

- Q5. Are M+C Plans entering a county that is partially unserved eligible for a New Entry Bonus?
- A5. No. HCFA does not have that discretion under the law. The statute refers to a payment area which has been defined as a county (with certain exceptions see section 1853 (d) of the Act) . Therefore, if a plan is serving part of a payment area, any plan entering that county could not be considered entering a previously unserved area since there is already a plan serving that county.
- Q6. What is HCFA's policy when an M+CO offers two M+C plans simultaneously in a previously unserved county?
- A6. When an M+CO offers two M+C plans simultaneously in a previously unserved county, the M+CO will receive the bonus for enrollees in both plans, since that "organization" is entitled to the bonus. Likewise, if more than two M+COs offer at the same time (See Q.2) and each has more than one plan, the M+COs will receive a bonus for all enrollees in all of the plans offered in a previously unserved county.
- Q7. How long will the M+CO receive bonus payments for entering a previously unserved county?
- A7. The M+CO will receive a 5 percent bonus for the first 12 months in which the new M+C plan is offered, and will receive a 3 percent bonus for the subsequent 12 months. For example, an M+CO that enters a previously unserved county on March 1, 2000 will receive 5 percent bonus payments until February 2001 and 3 percent bonus payments until February 2002.

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This OPL was prepared by the Center for Health Plans and Providers.